IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE FIFTH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE B.SESHASAYANA REDDY

-

WRIT PETITION NO : 15492 of 2002

Between:

Kumari H. Naga Lakshmi Devamma, D/o late Haridas Govinda Rajulu,
A.P.P.S.C., Gruhakalpa, M.J.Road,
Hyderabad.

..... PETITIONER

AND

1. Government of Andhra Pradesh, rep. by its Secretary, social Welfare Department, Secretariat Buildings, Secretariat, Hyderabad.
2. Collector and District Magistrate, Prakasam District, Ongole.
3. Andhra Pradesh Public Service Commission, rep. by its Secretary, Gruhakalpa, M.J.Road, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue any appropriate writ, order or direction more particularly one in the nature of writ of Mandamus declaring the proceedings in G.O.Ms.No.92 Social Welfare (CV.2) Department dated 7.8.2002 issued by the 1st respondent confirming the order of the 2nd respondent in Rc.No.C4/8819/97 dated 27.5.2000 canceling the caste certificate dated 17.10.1973 as illegal and void and subsequently declare that the petitioner belongs to "Konda Kapu" community and is entitled to all the benefits under that category.

Counsel for the Petitioner: MR.A.RAMALINGESWAR RAO

Counsel for the Respondent No.1: GP FOR SOCIAL WELFARE

Counsel for the Respondent No.2: GP FOR REVENUE

Counsel for the Respondent No.3: K.RAVI.

The Court made the following :

O R D E R :

1. This Writ Petition has been filed with a prayer to issue a Writ of Mandamus declaring the proceedings in G.O.Ms.No.92 Social Welfare (CV.2) Department, dated 7.8.2002 issued by the 1st respondent confirming the order of the 2nd respondent in Rc.No.C4/8819/97, dated 27.5.2000 canceling the caste certificate dated 17.10.1973 as illegal and void.

2. The case of the petitioner, in brief, as set out in the affidavit filed in support of the writ petition is as follows:

The petitioner studied SSLC in M.G.High School, Chirala and thereafter PUC and degree from V.R.S. & Y.R.N.College, Chirala. He was appointed as a Junior Assistant on 1.3.1976. The Tahsildar, Chirala issued community certificate in 1973 to the petitioner to the effect that she belongs to Konda Kapu tribe. While so, the Collector and District Magistrate-2nd respondent issued a show cause notice in Rc.No.D3/8819/97, dated 20-10-1997 as to why the caste certificate issued to the petitioner by the then Tahsildar, Chirala on 17.10.1973 should not be cancelled. The petitioner submitted her explanation on 10.11.1997 and thereafter she appeared before the committee. An order came to be passed by the District Collector and District Magistrate on 27.3.2000 canceling the caste certificate issued to the petitioner by the then Tahsildar, Chirala. The petitioner preferred an appeal before the Government of Andhra Pradesh-1st respondent and obtained stay of the operation of the order passed by the 2nd respondent. While so, APPSC-3rd respondent by proceedings No.2075/ADB/2/94, dated 24.7.2000 terminated the

services of the petitioner. The orders passed by the 3rd respondent came to be challenged by the petitioner by filing O.A.No.4596 of 2000 before the A.P.Administrative Tribunal, Hyderabad. The said O.A. was allowed on 9.8.2000. When the appeal of the petitioner came up for hearing, she could not appear on 2.7.2002 before the appellate authority and thereupon the appellate authority proceeded to pass the impugned order.

3. It is stated in the counter filed by APPSC-3rd respondent that the District Level Scrutiny Committee, Prakasam District headed by Joint Collector, Prakasam District caused necessary enquiry and came to the conclusion that the petitioner has obtained the community certificate fraudulently. It is further averred that basing on the report of the District Level Scrutiny Committee, the 2nd respondent issued orders of cancellation of the community certificate issued by the then Tahsildar, Chirala. The Government while admitting her appeal granted stay of the proceedings of 2nd respondent. The Government after giving reasonable opportunity to the petitioner to defend her case issued final orders in G.O.Ms.No.92, social Welfare (CV2) Department, dated 7.8.2002 rejecting the appeal filed by the petitioner.

4. Heard the learned counsel for the petitioner and learned Government Pleader for Social Welfare appearing for the respondents.

5. Learned counsel for the petitioner submits that the petitioner could not appear before the appellate authority because of the absence of her advocate and also of her ill-health. A letter has been produced before the appellate authority on 1.7.2002. The letter presented by the petitioner before the appellate authority reads as follows:

> " I submit that vide reference cited, I have been directed to attend personal hearing on 1.7.2002 in the office chambers of the Hon'ble Minister for Tribal Welfare. In this connection, I submit that I gave Vakalatnama to an advocate to attend the hearing on behalf of me in the office chambers of the Hon'ble Minister for Tribal Welfare. But now my advocate is out of station. Further I am also not well and at present I am on leave. As such, I am not in a position to present myself or send my counsel for the personal hearing on 1.7.2002 before the Hon'ble

Minister.

In view of this, I request to fix some other date convenient to the Hon'ble Minister, for which act of kindness I shall be grateful to you Sir."

It is explicit from the above letter that the petitioner could not proceed with the appeal on 1.7.2002 for twin reasons; firstly, non-availability of her counsel and secondly her ill-health. Keeping these two aspects in view I deem it appropriate to set aside the impugned order and remand the matter to the appellate authority for disposal afresh giving opportunity to the petitioner to represent her case. The appellate authority shall dispose of the appeal within two months from the date of receipt of a copy of this order.

6. Accordingly, this writ petition is disposed of. No costs.

Dated: 5-07-2005. (B.Seshasayana Reddy, J)

Tnb

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. The Secretary,

   Social Welfare Department, Government of A.P.,

   Secretariat, Hyderabad.

2. The Collector and District Magistrate, Prakasam District, Ongole.

3. The Secretary, APPSC, Gruhakalpa, M.J.Road, Hyderabad.

4. Two copies to Government Pleader for Revenue and Social Welfare, High Court Buildings, Hyderabad.(out)

5) 2 CD copies